

### **REMARKS/ARGUMENTS**

These remarks are made in response to the Office Action of September 12, 2006 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. Nonetheless, the Examiner is expressly authorized to charge any deficiencies to Deposit Account No. 50-0951.

In the Office Action, each of the claims was rejected on the basis of new grounds of rejection. Claim 25 was rejected under 35 U.S.C. § 112, second paragraph. Claims 1, 3-7, 9-12, 14-18, 20-23, 25, 26, and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Published Patent Application No. 2001/0054066 to Spitzer (hereinafter Spitzer), in view of U.S. Patent No. 6,487,180 to Borgstahl (hereinafter Borgstahl), and in further view of U.S. Published Patent Application No. 2003/0061271 to Pittarelli (hereinafter Pittarelli). Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Spitzer and Borgstahl, in further view of U.S. Patent No. 6,577,720 to Sutter (hereinafter Sutter).

### **Aspects of Applicants' Invention**

Prior to addressing the cited references, it may be helpful to reiterate certain aspects of Applicants' invention. One embodiment of the invention, exemplified by Claim 1, is a method for providing kiosk service offerings. The method can include retrofitting an existing, publicly-located kiosk with a wireless transceiver, the kiosk previously having lacked wireless communication capabilities but having been configured to communicate over an existing physical communications link. The method also can include configuring the kiosk to provide applications for performing various electronic services over short-range radio communications links to wireless devices in a personal area network (PAN).

The method can further include maintaining a list of available applications for performing the various electronic services. A portion of the available applications can be stored locally within the kiosk, while another portion can be retrieved by the kiosk from an

application service provider over the physical communications link. Additionally, the method can include establishing a short-range radio communications link with a wireless device in the PAN, receiving at the kiosk a request from the wireless device for one or more of the available electronic services, and retrieving selected applications for performing the requested electronic services.

The method also can include delivering the requested electronic services to the wireless device in the PAN via the short-range radio communications link. More particularly, services can be provided by conveying one or more retrieved applications. Once conveyed to the wireless device, a retrieved application can perform a requested electronic service by executing within the wireless device independently of the kiosk and other devices.

**Applicants Have Previously Established Conception and Reasonable Diligence**

As already noted, independent Claims 1, 12, 18, and 30 were each rejected as unpatentable over the newly-cited reference, Spitzer, in view of Borgstahl and Pittarelli. Applicants respectfully disagree that the new combination of references teaches or suggests every feature recited in the claims. Applicants respectfully maintain, however, that the issue is moot since Applicants previously established their conception of the invention and reasonable diligence toward its reduction to practice from a time prior to the effective date of Spitzer.

In support of their contention, Applicants point to the Declarations and supporting evidence that were filed with their August 4, 2004, response to a previous Office Action. At page 2 of the subsequent Office Action, dated November 12, 2004, the Declarations and supporting evidence were adjudged to be sufficient to overcome a previously-cited reference, U.S. Patent No. 6,587,633 to Treyz, *et al.* (Treyz).

Applicants further respectfully note that the effective date of Treyz, February 9, 2000, is earlier than the effective date of newly-cited Spitzer.

Applicants respectfully submit that failure to accord the Declarations and supporting evidence equal weight with respect to Spitzer as previously afforded with respect to Treyz would seriously undermine the goals of certainty and definiteness in the examination of applications by the Office.

**Applicants' Invention Predates The Newly-cited Reference**

Spitzer is a continuation-in-part of an application filed on June 13, 2000. Applicants earlier-submitted Declarations and supporting evidence established their conception and continuing diligence from at least January 26, 2000, to the time of filing the instant application. Applicants respectfully submit, therefore, that Applicants' conception coupled with their reasonable diligence toward its constructive reduction to practice from prior to the effective date of Spitzer preclude asserting Spitzer against Applicants' invention.

**CONCLUSION**

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

Date: December 12, 2006



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